

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s): Aures et al.  
Appl. No.: 10/089,319  
Conf. No.: 7284  
Filed: March 29, 2002  
Title: AUTOMATIC TRIGGERING OF CHANNELS OF LOWER PRIORITY  
DURING NETWORK OVERLOAD  
Art Unit: 2619  
Examiner: G. B. SEFCHECK  
Docket No.: 0118744-00053

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PRE-APPEAL BRIEF**

Sir:

In response to the Final Office Action dated October 18, 2007, please enter and consider the following remarks:

**REMARKS**

**I. THE REJECTION OF CLAIMS 1-2, 6-14 AND 17 UNDER 35 USC 103(a) AS BEING UNPATENTABLE OVER ERTZ IN VIEW OF SHIONOZAKI IS IMPROPER**

Claims 1-2, 6-16 and 17 stand rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 5,323,444 ("Ertz") in view of U.S. Patent No. 6,038,214. Applicant respectfully disagrees and contends that independent claims 1 and 12 and their respective dependent claims are allowable over this combination.

The invention relates to a method and apparatus that allows for servicing a high priority (e.g. emergency) call, even if all available lines are currently blocked by low priority calls, by freeing the resource allocated to one of the low priority calls.

Ertz discloses a community emergency response system which routes emergency calls to three different types of destinations. If the system is initially unable to route an emergency call to one of the three types of destinations, a last chance routing facility linearly checks destinations

to ensure that the availability of any previously unchecked destination is determined. If the system is still unable to route the emergency call, the call is disconnected. All emergency calls have the same priority and competition for communications resources with non-emergency calls is not addressed.

At pages 3 and 12, the Office Action discusses the relevance of Ertz to claim 1. Essentially, the Examiner argues that Ertz discloses determining the priority of a call using destination information items transferred in the course of the call because Ertz discloses using the ANI ("automatic number identification") of a call to look up an appropriate call handling destination in an ESN ("emergency service number") table. More specifically, the ANI of a call indicates from where the call originated, and the ANI is used to determine the nearest public safety answering point where an emergency call is to be routed.

However, neither the ANI nor the information in the ESN table are used to determine the priority of a call. In fact, Ertz does not disclose determining a priority of a call at all. Ertz only discusses "priority" in terms of prioritizing destinations to which a call may be routed. Specifically, an emergency call is routed to the nearest public safety answering point or to another public safety answering point if the nearest point is not available. Thus, the destinations for a particular call can be distinguished by their priority, but there is no mechanism for determining a priority of a call or for distinguishing calls by such non-existent priorities. In Ertz, the information represented by the "destinations being in a preferred priority" is not used to conduct allocation of network resources to an instance of access to the communication network.

In the instant application, on the other hand, the priority level of an incoming call determines whether the call may interrupt another call in order to service the incoming (e.g. emergency) call. The destination data is used to determine a priority of a call based on which allocation of network resources will take place. Hence, apart from the fact that information items transmitted from the caller are used while establishing the emergency call, there is no further correlation between Ertz and the claimed invention.

Applicants therefore submit that Ertz fails to disclose or suggest that a priority of an access to the communications network will be determined using destination information items transferred in the course of the current instance of access, as required by the claims (see, for example, claims 1 and 12). Moreover, Ertz fails to disclose assigning a high priority to access

transferring information items with destination information items identifying an emergency call center.

The Office Action admits that Ertz does not disclose or suggest that information transfer are released or made available or corresponding transmission resources allocated for the transfer of information items assigned a low priority are released or made available. For this feature, the Office Action relies upon Shionozaki. However, it is respectfully submitted that it is improper to combine Ertz and Shionozaki.

Shionozaki discloses a communication controlling system in which communication nodes reallocate resources based on the priority of communication sessions therein. As a result, a higher priority communication can preempt resources from a lower priority communication.

One of ordinary skill in the art would not combine the teachings of Ertz with Shionozaki because Ertz teaches away from combination with Shionozake. As noted above, Ertz only addresses emergency calls. Preempting the resources of any of the emergency calls being routed by Ertz would result in an emergency call in progress being dropped. The dropped caller is likely to call back, resulting in delays when the caller is routed to a different destination and/or a chain reaction of additional dropped emergency calls. Such an undesirable result would prevent one of ordinary skill in the art from combining Ertz with Shionozaki.

However, even if Ertz and Shionazaki can be properly combined, like Ertz, Shionozaki fails to disclose or suggest that a priority of an access to the communications network will be determined using destination information items transferred in the course of the current instance of access.

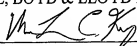
For at least the above reasons, Applicant submits that independent claims 1 and 12 and their respective dependent claims, are allowable over the cited prior art.

In view of the above, Applicants submit that this application is in condition for allowance. An indication of the same is solicited. The Commissioner is hereby authorized to charge deposit account 02-1818 for any fees which are due and owing, referencing Attorney Docket No. 118744-053.

Respectfully submitted,

BELL, BOYD & LLOYD LLP

BY



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Dated: January 18, 2008

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

0118744-00053

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on \_\_\_\_\_

Signature \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Application Number

10/089,319

Filed

March 29, 2002

First Named Inventor

Wilhelm Aures et al.

Art Unit

2619

Examiner

G. B. Sefcheck

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

☒ attorney or agent of record.  
Registration number 48,250

☐ attorney or agent acting under 37 CFR 1.34.  
Registration number if acting under 37 CFR 1.34 \_\_\_\_\_



Signature

MacLane C. Key

Typed or printed name

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Telephone number

January 18, 2008

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☐ \*Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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